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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/909,955	07/20/2001	Stephen F. Dull	12587-020001	2457
26212	7590	10/18/2005	EXAMINER	
FISH & RICHARDSON P.C. P.O. BOX 1022 MINNEAPOLIS, MN 55440-1022				JEANTY, ROMAIN
ART UNIT		PAPER NUMBER		
		3623		

DATE MAILED: 10/18/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	09/909,955	DULL ET AL.	
	<b>Examiner</b>	<b>Art Unit</b>	
	Romain Jeanty	3623	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) Responsive to communication(s) filed on 03 February 1995 and 13 July 2005.
- 2a) This action is FINAL.                            2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) Claim(s) 1-9, 13-17, 21-30, 32-54, 56 and 57 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) Claim(s) \_\_\_\_\_ is/are allowed.
- 6) Claim(s) 1-9, 13-17, 21-30, 32-54, 56 and 57 is/are rejected.
- 7) Claim(s) \_\_\_\_\_ is/are objected to.
- 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on \_\_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) All    b) Some \* c) None of:
  1. Certified copies of the priority documents have been received.
  2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- 1) Notice of References Cited (PTO-892)
- 2) Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_.
- 4) Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_.
- 5) Notice of Informal Patent Application (PTO-152)
- 6) Other: \_\_\_\_\_.

### **DETAILED ACTION**

1. This communication is in response to the received February 3, 2005 and July 13, 2005.

Claims 1-9, 13-17, 21-30, 32-54, and 56-57 are pending in the application

### **Response to Arguments**

2. Applicant's arguments with respect to claims 1-9, 13-17, 21-30, 32-54, and 56-57,

have been considered but are moot in view of the new ground(s) of rejection.

3. Applicants' argument has overcome the 35 USC § 112 second paragraph. The rejection has been withdrawn.

### **Claim Rejections - 35 USC § 112**

4. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

5. Claims 16 and 21 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claims 16 and 21 recite the limitation "the article of ". There is insufficient antecedent basis for this limitation in the claims.

### **Claim Rejections - 35 USC § 103**

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

7. Claims 1-9, 13-16, 45, 47, 48, 50, and 52 are rejected under 35 U.S.C. 103(a) as being unpatentable over David (Wo9959096) in view of Frost (U.S. Patent No. 5,041,972) and further in view of (A Review Of Conjoint Analysis)

As per claims 1, 6, 38-39, 42-44, 47-49, 51-52, David discloses a customer survey system comprising:

receiving at least survey data (Page 3, lines 6-8; Page 15, lines 18-20 and Page 16, lines 6-8);

processing at least the survey data (Page 8 lines 23-27).

David discloses presenting/displaying the survey data to the user in multiple formats (Page 18, lines 9-27 and Page 19, lines 4-10). David does not explicitly disclose producing marketing analytics and presenting the marketing analytics. Frost on the other hand, discloses “producing marketing analytics” as a means of performing analysis on survey data obtained from customers (col. 8, lines 36-39 and col. 9, lines 38-58). It would have been obvious to a person of ordinary skill in the art to modify the survey system of David to incorporate the marketing analysis of Frost. One having ordinary skill in the art would have been motivated to use such a modification in order to allow customers to make intelligence decisions and take timely actions

to achieve business goals. In addition, David and Frost do not explicitly disclose the use of conjoint data. DSS Research in the same field of endeavor discloses the concept of receiving conjoint survey data with respect to brand information, utility, and simulation data. Note pages 1-7 of DSS Research. Therefore, it would have been obvious to a person of ordinary skill in the art to modify the disclosures of David and Frost to incorporate the conjoint survey data of DSS Research so that marketers can focus on the most important features of products and design messages most likely to strike a cord with target buyers.

As per claim 2, David further discloses receiving *at least one*, survey data. Note abstract of David.

As per claim 3, David discloses the limitations of claim 3 in the rejection of claim 1 above. In addition, David discloses the claimed feature “displayed a form specified by a user” as a means of waiting for the user to select a format for the survey data to be displayed (See abstract and Page 16 lines 4-12). Displaying the marketing analytic in the user selected format into David and DSS Research would have been obvious to a person of ordinary skill in the art for the motivation allowing a customer to view survey reports in a desired format.

As per claim 4, David and disclose the limitation of claim 4 in the rejection of claim 1 above. However, David and DSS Report do not explicitly disclose “updating the conjoint survey data at predetermined intervals”. Frost in the same field of endeavor, discloses the claimed feature “updating the survey data at predetermined intervals” as a means of updating the survey data over time (col. 11, lines 35-38). It would have been obvious to person of ordinary skill in the art to modify the combined teachings of David and DSS Report by including updating the survey data at predetermined in the same conventional manner as disclosed by Frost. A person

having ordinary skill in the art would have been motivated to use such a combination in order to maintain accuracy of the survey data.

As per claim 5, David, Frost and DSS Report disclose the limitations of claim 5 in the rejection of claim 1 above. In addition, David discloses the claimed feature “wherein a presentation engine is used to provide a variety of display choices to a user” by using a Java Applet for displaying options to the customer (Page 18, lines 9-14).

As per claim 7, David and Frost and DSS Report disclose the limitations of claim 7 in the rejection of claim 1 above. However, David and Frost and DSS Report do not explicitly disclose “a trend analytic”. Frost in the same field of endeavor, Frost discloses at least the claimed feature “a trend analytic” as a means of predicting trend in market share data (col. 11, lines 35-38). It would have obvious to a person of ordinary skill in the art to modify David’s system and DSS Report to include trend in market shares as taught by Frost. One having ordinary skill in the art would have been motivated to utilize such a combination to allow customers to make intelligence decisions and take timely actions to achieve business goals.

As per claim 8, David discloses a customer survey system discloses an apparatus comprising:

a memory and processor a processor coupled to the memory (Page 9, lines 24-28), wherein the processor is configured to:

receiving at least conjoint survey data concerning consumer experience with a brand (receiving survey data from the customer) (Page 3, lines 6-8; Page 16, lines 6-8); processing at least the conjoint survey data (Page 8 lines 23-27).

David discloses presenting/displaying the survey data to the user in multiple formats (See abstract; Page 18, lines 9-14 and Page 19, lines 4-10). However, David does not explicitly disclose producing marketing analytics and presenting the marketing analytics to a user. Frost in the same field of endeavor discloses “producing marketing analytics” as a means of performing analysis on survey data obtained from customers (col. 8, lines 36-39 and col. 9, lines 38-58). It would have been obvious to a person of ordinary skill in the art to modify the survey system of David to incorporate the marketing analysis of Frost. One having ordinary skill in the art would have been motivated to use such a modification in order to allow customers to make intelligence decisions and take timely actions to achieve business goals. In addition, David and Frost do not explicitly disclose the use of conjoint data. in the same field of endeavor discloses the concept of receiving conjoint survey data with respect to brand information and utility data. Note pages 1-7 of Frost and DSS Report. Therefore, it would have been obvious to a person of ordinary skill in the art to modify the disclosures of David and Frost to incorporate the conjoint survey data of DSS Report so that marketers can focus on the most important features of products and design messages most likely to strike a cord with target buyers.

As per claim 9, the limitations of claim 9 are noted in the rejection of claims 2 above. Therefore, claim 9 is rejected under the same rationale relied upon of claim 2.

As per claim 13, the limitations of claim 13 are noted in the rejection of claim 6 above. Therefore, claim 13 is rejected under the same rationale relied upon of claim 6.

As per claim 14, the limitations of claim 14 are noted in the rejection of claim 7 above. Therefore, claim 14 is rejected under the rationale relied upon of claim 7.

Claims 15 recites an article comprising a computer-readable medium that stores executable instructions for causing a computer system for performing the steps of claim 1 above. Therefore, claim 15 is rejected under the same rationale relied upon of claim 1.

Claim 16 recites an article comprising a computer-readable medium that stores executable instructions for causing a computer system for performing the steps of claim 2 above. Therefore, claim 16 is rejected under the same rationale relied upon of claim 2.

Claim 17 recites an article comprising a computer-readable medium that stores executable instructions corresponding to limitations in method claim 3 above. Therefore, claim 17 is rejected under the same rationale relied upon of claim 3.

Claim 21 recites an article comprising a computer-readable medium that stores executable instructions corresponding to limitations in method claim 7 above. Therefore, claim 21 is rejected under the same rationale relied upon of claim 7.

As per claim 22, David discloses survey web server (See figure 1, element 20). It is to be noted that in order for a user/customer to obtain survey information from the survey web server, the user/customer must access the survey web server.

David further discloses the claimed feature “providing a variety of selectable display choices, and selecting a display choice and viewing survey data in response to the selection” as a means of permitting tabulated survey result data to be displayed in multiple graphical formats (Page 18, lines 1-27).

David is silent on the idea process marketing analytics, wherein the marketing analytics are based on at least conjoint data concerning consumer experience with a brand. On the other hand, Frost discloses a method for evaluating a consumer which performs analysis on survey

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data obtained from customers (col. 8, lines 36-39 and col. 9, lines 38-58). It would have been obvious to a person of ordinary skill in the art to modify the survey system of David to incorporate evaluating a consumer which performs analysis on survey data obtained from customers. One having ordinary skill in the art would have been motivated to use such a modification in order to allow customers to make intelligence decisions and take timely actions to achieve business goals. In addition, David and Frost do not explicitly disclose the use of conjoint data. DSS Report in the same field of endeavor discloses the concept of receiving conjoint survey data with respect to brand information. Note pages 1-7 of DSS Report. Therefore, it would have been obvious to a person of ordinary skill in the art to modify the disclosures of David and Frost to incorporate the conjoint survey data of DSS Report so that marketers can focus on the most important features of products and design messages most likely to strike a cord with target buyers.

As per claim 23, David further discloses a network system (See Page 7, lines 5-8).

As per claim 24, David and disclose the limitations of claim 25 in the rejection of claim 22 above. However, David and DSS Report do not expressly disclose “generating simulation data using the marketing analytics”. Frost in the same field of endeavor discloses the claimed feature “generating simulation data using the marketing analytics” as a means of simulating the market data (col. 9, lines 41-58). It would have obvious to a person of ordinary skill in the art to modify David’s system and DSS Report to include market simulation in the same conventional manner as disclosed by Frost. One having ordinary skill in the art would have been motivated to utilize such a combination to allow customers to make intelligence decisions and take timely actions to achieve business goals.

As per claim 25, the David and DSS Report disclose the limitations of claim 25 in the rejection of claim 22 above. However, David does not explicitly disclose “a trend analytic”. Frost in the same field of endeavor discloses at least the claimed feature “trend analytic” as a means of predicting trend in market shares (col. 11, lines 35-38). It would have obvious to a person of ordinary skill in the art to modify David’s system and DSS Report to include trend in market shares as taught by Frost. One having ordinary skill in the art would have been motivated to utilize such a combination to allow customers to make intelligence decisions and take timely actions to achieve business goals.

As per claim 26, David discloses an apparatus comprising:

a memory and processor a processor coupled to the memory (Page 9, lines 24-28), wherein the processor is configured to:

receiving at least conjoint survey data concerning consumer experience with a brand (receiving survey data from the customer) (Page 3, lines 6-8; Page 16, lines 6-8);

processing at least the conjoint survey data (Page 8 lines 23-27).

David discloses presenting/displaying the survey data to the user in multiple formats (Page 18, lines 9-14, and Page 19, lines 4-10). However, David does not explicitly disclose producing marketing analytics and presenting the marketing analytics to a user. Frost in the same field of endeavor discloses “producing marketing analytics” as a means of performing analysis on survey data obtained from customers (col. 8, lines 36-39 and col. 9, lines 38-58). It would have been obvious to a person of ordinary skill in the art to modify the survey system of David to incorporate the marketing analysis of Frost. One having ordinary skill in the art would have been motivated to use such a modification in order to allow customers to make intelligence

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decisions and take timely actions to achieve business goals. In addition, David and Frost do not explicitly disclose the use of conjoint data. DSS Report in the same field of endeavor discloses the concept of receiving conjoint survey data with respect to brand information. Note pages 1-7 of DSS Report. Therefore, it would have been obvious to a person of ordinary skill in the art to modify the disclosures of David and Frost to incorporate the conjoint survey data of DSS Report so that marketers can focus on the most important features of products and design messages most likely to strike a cord with target buyers.

As per claim 27, David further discloses a network system (See Page 7, lines 5-8).

As per claim 28, David and DSS Research disclose the limitations of claim 25 in the rejection of claim 26 above. However, David and DSS Report do not expressly “generating simulation data using the marketing analytic”. Frost in the same field of endeavor discloses the claimed feature “generating simulation data using the marketing analytics” as a means of simulating the market share data (col. 9, lines 41-58). It would have obvious to a person of ordinary skill in the art to modify David’s system and DSS Research to include market simulation in the same conventional manner as disclosed by Frost. One having ordinary skill in the art would have been motivated to utilize such a combination to allow customers to obtain predictions of how buyers will respond to changes, thereby making intelligence decisions and take timely actions to achieve business goals.

As per claim 29, David and DSS Report disclose the limitations of claim 25 in the rejection of claim 22 above. However, David and DSS Report do not explicitly disclose “a trend analytic”. Frost in the same field of endeavor discloses at least the claimed feature “a trend analytic” as a means of predicting trend in market shares (col. 11, lines 35-38). It would have

obvious to a person of ordinary skill in the art to modify David's system and DSS Report to include trend in market shares as taught by Frost. One having ordinary skill in the art would have been motivated to utilize such a combination to allow customers to make intelligence decisions and take timely actions to achieve business goals.

Claim 30 recites an article comprising a computer-readable medium that stores executable instructions corresponding to limitations in method claim 22 above. Therefore, claim 30 is rejected under the same analysis relied upon of claim 22.

Claim 32 recites an article comprising a computer-readable medium that stores executable instructions corresponding to limitations in method claim 24 above. Therefore, claim 32 is rejected under the same analysis relied upon of claim 24.

Claim 33 recites an article comprising a computer-readable medium that stores executable instructions corresponding to limitations in method claim 29 above. Therefore, claim 33 is rejected under the same analysis relied upon of claim 29.

As per claim 40, 45, and 50, Frost discloses the concept market research utilizing quantitative marketing information (col. 1, lines 10-37).

8. Claims 34-37 are rejected under 35 U.S.C. 103(a) as being unpatentable over David (Wo9959096) in view of Frost (U.S. Patent No. 5,041,972), in view of Revashetti et al (U.S. Patent No. 6,453,347).

As per claim 34, David discloses a customer survey system comprising:  
processing at least survey data (Page 8, lines 23-24);  
displaying the survey data based on a user selection (Page 18, lines 9-27 and Page 19, lines 4-10);

David is silent on the idea of grouping the processed data according to a plurality of marketing analytics. Frost in the same field of endeavor, discloses the claimed feature “grouping the processed data according to a plurality of marketing analytics” as a means of evaluating the survey data and grouping the data for performing marketing analysis (col. 7, lines 29-54 and col. 8, lines 36-39). It would have been obvious to a person of ordinary skill in the art to modify the system of David to include marketing analytic “analysis” in the same conventional manner disclosed by Frost. One having ordinary skill in the art would have been motivated to use such a modification in order to allow customers to make intelligence decisions and take timely actions to achieve their business goals. The combination of David and Frost does not explicitly disclose an analytic engine and a presentation engine. Revashetti et al in the same field of endeavor, discloses an analysis engine and a presentation engine for analyzing and presenting marketing data to a user computer (See figure 3-2, elements 324 and 326; col. 4, lines 34-57). It would have been obvious to a person of ordinary skill in the art to modify the David and Frost’s system to include the analysis engine and the presentation engine of Revashetti et al. One having ordinary skill in the art would have been motivated to do so in order to present marketing information to a user. In addition, David does not explicitly disclose the survey data being conjoint data. Receiving or obtaining conjoint survey data is notoriously well-known in the marketing data for estimating the value people place on the attributes of features which define products. Therefore, it would have been obvious to a person of ordinary skill in the art to modify the disclosures of David and Frost and Revashetti et al to incorporate this well known feature of collecting or obtaining conjoint survey data in order to determine which products are most

important to a market. Applicant is directed to the teachings of DSS Report (A Review of Conjoint Analysis) for this well-known teachings.

As per claim 35, David and Revashetti disclose the limitation of claim 35 in the rejection of claim 34 above. However, David and Revashetti do not expressly disclose “generating simulation data using the marketing analytic”. Frost in the same field of endeavor discloses the claimed feature “generating simulation data using the marketing analytics” as a means of simulating the market data (col. 9, lines 41-58). It would have obvious to a person of ordinary skill in the art to modify David and Ravashetti system to include market simulation in the same conventional manner disclosed by Frost. One having ordinary skill in the art would have been motivated to utilize such a combination in order to obtain predictions of how buyers will respond to changes, thereby allowing customers to make intelligence decisions and take timely actions to achieve business goals.

As per claim 36, David and Revashetti disclose the limitations of claim 36in the rejection of claim 34 above. However, the combined references of David, and Revashetti do not explicitly disclose “a trend analytic”. On the other hand, Frost discloses at least the claimed feature “trend analytic” as a means of predicting trend in market shares (col. 11, lines 35-38). It would have obvious to a person of ordinary skill in the art to modify the David and Revashetti’s system to include trend in market shares as taught by Frost. One having ordinary skill in the art would have been motivated to utilize such a combination to allow customers to make intelligence decisions and take timely actions to achieve business goals.

As per claim 37, David further discloses processing at least one of traditional survey data.  
Note abstract of David.

9. Claims 39, 44 and 49 are rejected under 35 U.S.C. 103 (a) as being unpatentable over David in view of Frost as applied to claims 1, 8, and 15 above and further in view of Poiesz (Individual reactions to advertising: theoretical and methodological development).

As per claims 39, 44, and 49, the combination of David, Frost and DSS Research does not explicitly disclose allowing a user to measure the strength of the consumer experience with the brand and to make decision regarding the brand. Poiesz in the same field of endeavor, discloses the concept of a user measuring the strength of a consumer. Note entire article. It would have been obvious to a person of ordinary skill in the art to have modified the disclosures of David, Frost, and DSS Research to incorporate the teachings of Poiesz with the motivation to measure the consumer's behavior, thereby allowing a marketer to tailor his marketing approach to that customer's behavior.

10. Claims 41, 46, 51-54, and 56-57 are rejected under 35 U.S.C. 103(a) as being unpatentable over David in view of Frost, in view of as applied to claims 1, 8, and 15 above and further in view of Paul et al (Individual Hybrid Models for Conjoint Analysis).

As per claims 41, 46, 51-54, and 56-57, the combination of David, Frost and DSS Research does not explicitly disclose calculating a total utility analytic. Paul in the same field of endeavor, discloses the concept of utility analytic. Note pages 850-853. It would have been obvious to a person of ordinary skill in the art to have modified the disclosures of David, Frost and DSS Research to incorporate a utility analytic in the same conventional as evidenced by Paul in order to provide researchers with day-to-day decisions of consumers' brand buying pattern.

### **Conclusion**

11. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

a. Shapiro (US Patent No. 6,915,269) discloses including conjoint analysis for predicting which attributes of products and services are relatively more and less valuable to a given group of constituents.

b. Alessandro (US Patent No. 6,556,974) discloses the concept of evaluating response utilizing conjoint analysis.

c. Paul et al (New Techniques for Measuring Consumers' Judgments of Products and Services) disclose a system for measuring consumer product preference.

d. Philippe et al "Commercial Use of Conjoint Analysis) discloses a system for conducting conjoint analysis using survey data.

e. Paul et al (New Way to Measure Consumers' Judgments) disclose a system for conjoint analysis using conjoint survey data.

f. Paul (Modeling Preference in Conjoint Measurement) discloses a system for predicting actual market shares using conjoint survey data.

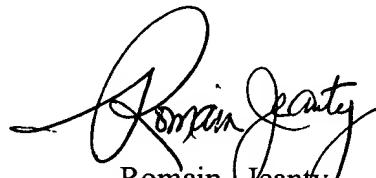
g. Steven (A Magazine of Management & Applications) discloses a conjoint analysis system.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Romain Jeanty whose telephone number is (571) 272-6732. The examiner can normally be reached on Mon-Thurs 7:30 am - 6:00 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Tariq R. Hafiz can be reached on (571) 272-6729. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

September 19, 2005



Romain Jeanty  
Primary Examiner  
Art Unit 3623